IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.1.2005.

CORAM:

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION No.7399 OF 2001
AND W.M.P.No.10566 OF 2001.

1. R.Kumar
2. M.Malathi
3. C.Munirathina Praba
4. M.Gurunathan
5. A.Narasimhan
6. S.S.Sridhar
7. M.Mohamed Ismail
8. B.Sasikala
9. A.Sultan Saleem
10. V.Chandrasekaran
11. G.Sankara Subramanian
12. V.Malarvizhi
13. K.Jayashree
14. V.Thulasi Bai
15. A.R.Rajani
16. K.S.Vishvaksenan
17. A.Stephen Arputharaj
18. S.Ramesh
19. Manjula Pramod
20. R.Kalavathy
21. S.Ramamoorthy
22. E.Logashanmugam
23. C.D.Suriyakala
24. T.Nageswara Rao
25. M.A.Dorairangaswamy
26. M.Sumathi
27. M.Sundararajan
28. G.Padmavathi
29. Chaya Kulkarni
30. N.Muthukrishnan
31. D.Jessintha
32. S.Ramalatha
33. Latha Parthiban
34. P.Angusta Sophy
35. Usha Bhanu N.
36. V.Murali Bhaskaran
37. A.M.J.Md.Zubair Rahman
38. S.Varadhaganapathy

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39. N.K.Karthikeyan
40. S.Pasupathy
41. S.Venkatasalam
42. S.Palanisamy
43. V.Balaji
44. C.Jegadheesan
45. V.Balasubramanian
46. A.S.Rajavenkata Subramanian
47. A.Somasundaram
48. K.R.Baskaran
49. S.Devaki
50. C.Kalaiarasan
51. R.Sivasubramanian
52. P.Sathiamurthi
53. S.P.Arul
54. R.Ashokan
55. Mrs.Devika Sivakumar
56. I.S.Avinan
57. Nasreen Kaleem
58. Sharmila Sankar
59. H.Jain Alaudeen
60. P.K.Kumaresan
61. A.Nagappan
62. M.Kannan
63. G.Maria Dhayana Latha
64. P.Selvam
65. R.Samson Ravindaran
66. J.Joshva Gnana Sekaran
67. S.Mohan
68. T.Sheela ... Petitioners

Vs.

1. The State of Tamil Nadu,
   rep. by The Secretary,
   Higher Education,
   Fort St. George,
   Chennai-9.

2. The Director of Technical Education,
   Guindy, Chennai-25.

3. The Government of India,
   Ministry of Human Resources Development,
   Department of Education,
   New Delhi.

4. The Registrar,
   Birla Institute of Technology and Science
   Pilani, Rajasthan.

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5. The Registrar,
   University of Madras, Madras.

6. The All India Council for
   Technical Education,
   Shastri Bhavan,
   Haddows Road,
   Chennai-34.

7. The Registrar,
   Anna University,
   Chennai.

8. Association of Indian
   Universities,
   AIU House,
   No.16 Kotla Marg,
   New Delhi-2. ... Respondents

* * *

Writ Petition filed under Article 226 of the Constitution of India praying for the relief as stated therein.

* * *

For petitioners : Mr.R.Gandhi, Senior counsel for M/s. L.Chandrakumar

For R.1 & R.2 : Mr.R.Lakshmi Narayanan,G.A.
For R.3 : Mr.R.Santharaman, S.C.G.S.C.
For R.4 : Mr.Vedavalli Kumar
For R.5 : Mr.N.Rajan
For R.6 : Mr.Vijay Narayan, S.C. for M/s.R.Parthiban
For R.7 : Mr.Mani Sundar Gopal for M/s.G.M.Mani Associates
For R.8 : No appearance

* * *

O R D E R

The above Writ Petition has been filed praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the second respondent made in Letter No.5000/CDC/2000, dated --.10.2000 and quash the same and consequently direct the respondents to recognize the degree of the 4th respondent for all purposes including appointments, promotions, higher studies and for doing Ph.D. etc. with all consequential benefits.

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2. Petitioners, numbering 68, are all B.E/B.Tech. graduates and are all working as Lecturers in various colleges and with permission from their respective college they joined the M.S. Degree Course (Computer Science, Electronics Control etc., systems and Information, Software System and Technological Operations) by distance education system of the BITS, Pilani (Rajasthan) and have completed the course also and when it came to the matter of recognition, the Director of Technical Education, by the impugned order, has informed the petitioners that the M.S. Degree awarded by BITS, Pilani through correspondence programme is not considered as equivalent degree to that of M.E. Degree awarded by the Tamil Nadu Universities. Challenging the said order, the present writ petition has been filed.

3. The case of the petitioners is that the said degree was obtained by them by undergoing the regularly sponsored distance learning programmes of the BITS, Pinali, while being employed as Lecturers in various Engineering Colleges and Polytechnics in pursuance of the employers having met the entire academic pursuit to do the M.S. sponsored distance learned programme of BITS, Pilani; that BITS Pilani is a 'Deemed University' and the degrees which are awarded are automatically recognized and no formal orders of recognition are required, as per Office Memorandum No.6/1/64-Estt.D. dated 29.4.1964; that the order of second respondent in treating the degree awarded by the pioneer Universities to have been not equivalent to the M.E./M.Tech Degree which hitherto was considered equivalent is illegal and that apart, the said Institution has been established by an Act of Parliament in the year 1971 and was accorded the status of 'Deemed University' under the Universities Grants Commission Act, and hence the order of the second respondent suffers jurisdictional and for non-application of mind.

4. The petitioners would further submit that any degree set up by an Act of Parliament or a State Legislature are automatically recognized and the M.S. Degree of the BITS, Pilani was recognized equivalent to M.E/M.Tech degree of various other Universities; that the Madras University and Anna University are, by and large, slowly and steadily adopting the system that has been in vogue in BITS, Pilani and convert to that of the BITS system, but insofar as the recognition and equalisation is concerned, the second respondent would say that the number of subjects is 12 insofar as regular class candidates are concerned and as far as BITS, they are eight inclusive of project work (desertion) in III Semester like all other Universities whereas the fact remains that in Anna University and Indian Institute of Technology, Chennai, the subjects are only five and the total

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number of credits that are accorded for consideration are 25 units insofar as BITS and 15 units insofar as the Anna University and the Indian Institute of Technology are concerned.

5. During arguments, the learned senior counsel for the petitioners would submit that the impugned order suffers for the following reasons:

1. The second respondent has no jurisdiction or authority to pass the impugned order.

2. Even assuming that he got the jurisdiction, he cannot straight away pass the order, without giving an opportunity and hearing to the petitioners and therefore it is in violation of the principles of natural justice since the very same Degree had been recognised by them for the past six years; and

3. Even assuming that the second respondent has jurisdiction and he can pass the order, the impugned order can have only a prospective operation and cannot affect the degrees already received and recognised by them, being an administrative order and not a statutory power.

6. The learned senior counsel would refer to the Official Memorandum No.GAD 6 SDR 71, Bangalore, dated 16.11.1971 published in the Mysore Gazette and submit that BITS, Pilani is a 'deemed University'. The learned senior counsel would further cite a letter No.F-18-15/82/T-7, dated 7.6.1982 of the Government of India addressed to all the Vice Chancellors of the Universities wherein it has been mentioned that 'as per the Ministry of Home Affairs O.M.No.6-1-64 Estt.D dated the 19th April 1964 in the case of degrees/diplomas awarded by Universities in India which are incorporated by an Act of the Central or State Legislature in India and other educational Institutes, established by an Act of Parliament or declared to be deemed as Universities under Section 3 of the University Grant Commission Act (1956), no formal orders recognising such degrees/diplomas need be issued by Govt. Such degrees/diplomas should be recognised automatically for the purpose of employment under the Central Government....'

7. The learned senior counsel would also cite the Office Memorandum in Ref.Senate 77/MS, dated 26th August 1988 issued by the Registrar of BITS, Pilani wherein it has been stated that 'The Master of Science (M.S.) degrees awarded by the Birla Institute of Technology & Science are Higher Degrees operated through Distance Learning Programmes. All the M.S.degrees in the specific branches are equivalent to M.E./M.Phil./M.Pharm. in

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the corresponding branches of the formal system. The holders of M.S. Degrees are eligible to seek admission to Ph.D. Programmes of the Institute.'

8. The learned senior counsel would also refer to a letter NO.F.19-1/90/TD-V, dated 13.11.1991 addressed by the Deputy Educational Adviser (Tech), Government of India, Ministry of Human Resources Development (Department of Education) to one V.Senthur wherein it has been stated that '... degrees awarded by a University set up under an Act of Parliament or a State Legislature are automatically recognised for purpose of employment under Central Government. The Birla Institute of Technology & Science, Pilani is such a University'. The learned senior counsel would further submit that one of the Tamil nadu Universities has recognised the M.S. computer science degree given by BITS and would refer to the Letter in Ref:MSU/BS 1/93, dated 1.4.1993 issued by the Registrar of the Manonmaniam Sundaranar University, Kokkirakulam, Tirunelveli wherein it has been mentioned that 'for recruitment/promotion/higher studies, the M.S. Computer Science degree given by Birla Institute of Technology and Science, Pilani, may be treated on par with PG Computer Science degree'.

9. The learned senior counsel would further submit that the Association of Indian Universities, New Delhi by their letter No.EV/VII(5)/95/11664 dated 26.9.1995 has also clarified that 'the certificate issued by the BITS Pilani on the equivalence of their MS degree should be acceptable to all concerned. In case of any further information, kindly request your employer to write to us.'

10. The learned senior counsel would further refer to the letter in O.No.410/Raj-16/BOS (PG)/92, dated 31.7.1995 of the Adviser of the All India Council for Technical Education addressed to The Registrar, Kurukshetra University, Kurukshetra wherein it has been clarified in the following manner:

> "The Council has received some queries regarding the equivalence of M.S.degree of BITS, Pilani, which is not included in the list of approved courses of AICTE. In this regard, I may clarify that as council has not received any proposal from BITS, Pilani for approval of above programme. However, as per Govt. of India communication No.F.19-3/90-TD dated July 13, 1990 addressed to the Commissioner and Director of Technical Education Govt. of Andhra Pradesh it has been made clear that

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The Degrees awarded by the Universities set up under an Act of Parliament or a State Legislature are automatically recognised for the purpose of employment under Central Govt. The Birla Institute of Technology & Science, Pilani, is such a University.

I hope that this resolves the question of its recognition by Govt. of India'

11. The learned senior counsel for the petitioners would further refer to a letter addressed by BITS, Pilani to one Mrs.Asha Maria, 32 Venu Gopalsamy Street, Perambur, Chennai-11 which reads as follows:

"BITS is a deemed University and is authorized to offer any degree programme. Being a deemed university all degrees offered by BITS are to be automatically recognised. Please find enclosed papers to support this view.

The UGC does not recognise specific degree programmes. However, UGC recognises BITS to be a deemed university.

AICTE is to grant recognition to degree programmes offered by engineering colleges or polytechnics. Universities do not have to take any specific recognition from AICTE. This is according to Section 10(k) of the AICTE Act."

12. Citing all the above correspondences, the learned senior counsel would request the Court to consider the language employed in the impugned order in the light of the above submitted factual position and would submit that absolutely no reason as to why having recognised and accepted those degrees as a an equivalent to M.E. for more than six years, the respondents have issued the impugned order and would pray to allow the above writ petition.

13. The first respondent would file a counter wherein it has been stated that the All India Council for Technical Education has stated in its letter No.410/Rej.16/BOS(pa)/92 dated 31st July 1995 that the Council has not received any proposal from Birla Institute of Technology and Science, Pilani for approval of the above programmes and the degrees awarded by the Universities set up under an Act of Parliament or as State Legislature are automatically recognised for the purpose of employment under Central Government and not for the State Government (State Level Committee); that the Sub-Committee's

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report constituted by the University of Madras in this connection is awaited; that in the resolution of General Academic Matters of the Syndicate Meeting of the University of Madras held on 22.12.1999 it was resolved that 'the number of subjects in M.S. Degree offered by BITS, Pilani, through Distance Education in various discipline contains only eight subjects which is less when compared to M.E. Degree course which offers 12 subjects in two Semester and Project work for one full semester by the Madras University and also the duration of M.S.Programme in BITS, Pilani is two to four Semesters and hence the M.S. Degree offered by BITS, Pilani through Distance Education cannot be considered as equivalent to M.E./M.Tech. Degree of respective discipline of Madras University for the purpose of appointment/Higher Studies'. Relying on the said resolution, this respondent would pray to dismiss the above writ petition.

14. The fourth respondent/BITS, Pilani would file a counter thereby supporting the case of the petitioners and further submitting that BITS has been established by the Act of Parliament and was accorded the status of 'Deemed University' by the Act of Parliament under the Universities Grants Commission Act; that the degrees awarded by the 4th respondent are automatically recognized for the purpose of employment; that as per the Central Government Act, BITS, Pilani is a recognized University and the M.S. Degree of the said University has been recognized as equivalent to M.E./M.Tech degree of various other Universities; that BITS as a Deemed University is empowered to conduct degree programmes and offer degrees and hence it is not necessary for Director of Technical Education, Tamilnadu to specifically recognize these degrees; that BITS as a Deemed University started offering programmes under Distance Learning Scheme specifically for Human Resources Development of the collaborating organizations with the same rigour in terms of duration, number of courses, course contents, evaluation of the students etc. as that of the programmes offered on campus.

15. This respondent would further submit that the Distance Learning Programmes in technological areas have not only the approval of the nation but the institute has been given fund support by the UGC, MHRD etc.; that these programmes aim at Manpower development of employed personnel who are duly sponsored by their employers; that many countries conduct such programmes and there are also institutions in India like Jawaharlal Nehru Technological University, Saifabad which conducts Distance Learning Programmes in engineering Sciences; that it enables the favourable interaction between the Institute and Industries and paves way for the Institute's participation in the continuing education of working Manpower with an aim of human resource development; that BITS has framed regulations

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with regard to DLP and this brochure gives details of the regiment and rigor which a student undergoes to get the degree under this programme; that DLP Division also issues course handout to the students for each semester for each course and apart from, each student has a mentor and he is evaluated through credit based system of evaluation under CGPA; that BITS degree is recognized throughout the world; that the Tamil Nadu Services annual Schedule II to Tamil Nadu State and Subordinate Service Rules in relation to recognized Units and Institute by UGC are concerned would recognize the BITS Pilani at Sl.No.1 in the institution to be a recognized one and MHRD had also reiterated that BITS is recognized for all purposes including that of Ph.D. and M.Phil; that the impugned order de-recognizing the degree awarded by BITS is illegal and without any authority of jurisdiction; that the impugned order has not assigned any reason; that right from the inception of BITS, it has been recognized by the second respondent and all of a sudden, the second respondent chose to de-recognize the degree and the same is unsustainable since amounting to discrimination if it is made operative.

16. This respondent would further submit that BITS is a deemed University and it does not receive any maintenance grant either from the State of Rajasthan or from the Central Government and is controlled and managed by itself and there is no interference of the State in any manner in the day-to-day affairs, administration and management of the institute; that it is not creation of any statute, as such, it is not a State within the definition of Article 12 of the Constitution of India and is not amenable to the writ jurisdiction of this Court and this Court should be slow to interfere in the day-to-day affairs of the institute in its extraordinary jurisdiction under Article 226 of the Constitution of India. On such grounds, this respondent would pray to quash the impugned order.

17.The fifth respondent/University of Madras would file a counter thereby submitting that the writ petition is not maintainable in law; that the Principal, Thanthai Periyar Government Institute of Technology, Vellore in his letter dated 13.1.1993 and the Registrar, Hindustan Institute of Engineering Technology, Chennai in his letter dated 6.12.1993 had sought a clarification whether the M.S. Degree awarded by the 4th respondent under the distance learning programme could be considered as equivalent to the M.E./M.Tech degree of respective discipline of the University of Madras and this was referred to the then Chairman, Board of Studies in Engineering for his remarks and thereafter as per his suggestion, the matter was placed before the meeting of the Board of studies in Engineering held on 31.3.1994 and the Board had constituted a Sub-Committee to go into the details such as entrance qualification,

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curriculum content, regulations, scheme of examination, passing requirements etc. under the chairmanship of Dr.S.Natarajan, but the Sub-Committee did not convene the meeting; that the Board of Studies in Engineering in its meeting held on 30.7.1999 resolved that if the M.S. of specific discipline has comparable subjects of study both in number and contents in corresponding discipline of M.E. in Madras University and if the M.S. Programme is done after a four year degree programme in Engineering in the respective branches of study, then such individual cases may be considered as equivalent for the purpose of appointment/higher studies and such individual cases have to be referred to and assessed by the Board of Engineering of respective branch and the said resolution was approved by the Syndicate on 20.8.1999; that the said matter was once again referred to the Chairman, Board of Studies in Engineering, since there is only one Board of studies in Engineering and no separate Board of Engineering for each branch at that time, for his suggestion and the Chairman in his letter No.9970/Z/99 dated 30.11.1999 has suggested as follows:

"... granting of recognition to M.S. degree in various discipline awarded by BITS, Pilani, through distance learning programme as equivalent to M.E./M.Tech Degree of the discipline concerned of Madras University is a major policy decision to be taken and to be approved by the appropriate bodies of the University. Hence it is suggested that this issue may be placed before the ensuing Board of Studies in Engineering Meeting".

18. This respondent would further submit that the Board of Studies in Engineering at its meeting held on 8.12.1999 has considered the above matter and resolved as follows:
"The number of subjects in M.S. Degree offered by BITS, Pilani through Distance Education in various discipline contains only eight subjects which is less when compared to M.E. degree course which offers 12 subjects in two semester and a project work for one full semester by the Madras University.

19. Also the duration of M.S. Programme in BITS, Pilani is two to four semesters. Hence the M.S. degree offered by BITS, Pilani, through Distance Education cannot be considered as equivalent to M.E./M.Tech. Degree of respective discipline of Madras University for the purpose of appointments/higher studies."

20. This respondent would further submit that the above recommendation of the Board of studies in Engineering was approved by the Syndicate at its meeting held on 22.12.1999; that the Board of Studies can be substituted by the Syndicate by means of an ordinance under Section 25-A of the Madras University Act, 1923; that it is an expert body consisting of

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eminent academicians; that it has power, among others, to make recommendations in regard to courses of study and examinations in the subject, with which it deals; that inasmuch as the said recommendation of the Board of studies in Engineering dated 8.12.1999, is approved by the Syndicate by its resolution dated 22.12.1999, it is binding on the University of Madras; that the above writ petition is not maintainable in law inasmuch as there is no provision under the University Grants Commission Act 1956 requiring the fifth respondent University to recognize the degree of other Universities; that Section 22 of the said Act vests only the right on Universities and other institutions recognized as such under Section of the Act to confer or grant degrees; that it does not create a corresponding obligation on the part of other Universities to recognize those degrees; that other Universities will recognize the degree of another University only when they conform to the standard, prescribed by them under their statutes or regulations or if they are found to be equivalent by the expert bodies like the Board of studies of the fifth respondent University; that inasmuch a decision has been taken by the Syndicate of the fifth respondent University that the M.S.degree conferred by the fourth respondent is not equivalent to its M.E./M.Tech degree, on the basis of the resolutions of the Board of studies, dated 8.12.1999, no legal obligation to recognize the said degree, arises as far as the fifth respondent University is concerned and as a result, no writ would lie as against the fifth respondent University and therefore the same is liable to be dismissed.

21. The seventh respondent/Anna University would file a counter thereby submitting that since the above Writ Petition has been filed challenging the communication of the Director of Technical Education, this respondent cannot be held responsible for the same; that as far as this respondent is concerned, the Syndicate of Anna University after perusing the report of the Expert Committee have resolved vide Syndicate Resolution No.105.13.1 dated December 1995 not to recognise BITS, Pilani M.S. Degree as equivalent to other M.E./M.Tech degrees and hence the graduate with M.S. Degree from BITS, Pilani are not entitled to be admitted into the Ph.D. programme of the respondent University; that various distance education programmes are normally equivalent to only part-time degree programmes and mostly teachers of Engineering colleges and persons who are employed in industries undergo the M.S.Distance education programme in BITS Pilani; that the M.S. Degree programme is a specially designed programme conducted to cater to the specific needs of various industries as per their requirements, funding and the course is also sponsored by the industries and therefore, there is no fixed syllabi or curriculum that is being followed for the purpose of awarding M.S. Degree in BITS, Pilani.

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22. This respondent would further submits that to the knowledge of this respondent, the courses offered by BITS, Pilani have not got the approval of AICTE; that since M.S. degree programme of BITS, Pilani being primarily a sponsored programme, the rigor of test and required level of competence applicable to regular M.E. Degree programmes are not present in the M.S. Degree programme; that the petitioners have also not presented the authenticated syllabi, the qualification of teaching faculty, duration of teaching and practical training of various subjects, the examination administered, the marks required for pass and class for categorization etc. applicable to the degree course undergone by the petitioners.

23. Further giving the example of M.E./M.Tech part-time programme as of 5 semesters with Regular campus attendance of the Anna University whereas it is only 3 semesters for the M.S. of BITS, Pilani and giving a comparative chart of both the courses; this respondent has bodies such as Academic Council and Syndicate which are vested with the powers of evaluating, deciding matters, such as recognising degrees awarded by various Universities in India and abroad as recognised and equivalent for the purpose of higher education in the University and accordingly, the University after due deliberation and application of mind have decided not to consider M.S. Degree awarded by BITS Pilani and certain other Universities as equivalent to M.E/M.Tech. degrees awarded by Anna University. On such grounds, this respondent would pray to dismiss the above writ petition.

24. The petitioner would file a rejoinder as against the above counter filed by the 7th respondent thereby submitting that the statement of the 7th respondent that insofar as the impugned order is concerned it cannot be held responsible is false in view of the fact that the admission to the Engineering Courses, approval of the students, grant of various courses,monitoring of all Technical Institutions with the qualifications of the Lecturers, Assistant Professors and Professors etc. are checked and inspected by the second respondent and the same is forwarded for approval to the respective affiliating Universities and without approval of the second respondent, no technical Institute can be affiliated to the University; that the Syndicate of the Anna University is said to have resolved vide Resolution No.105.13.1 during December 1995 not to recognise BITS, Pilani M.S. degree as equivalent to M.E./M.Tech degree and that the said Graduates of BITS, Pilani are not entitled to be admitted into the Ph.D. courses of Anna University and the said resolution having been passed during December 1995 and that all the petitioners having possessed M.S. degree prior to the said resolution can have only

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prospective operation without in any way affecting the accrued rights of the petitioners; that the Government by an Act had affiliated all the Engineering Colleges throughout the Tamil Nadu to the Anna University and consequent upon that, no orders have been issued to persons who are undergoing Ph.D. degree on the basis of M.S. degree of BITS, Pilani and in fact, the Director of Technical Education had sponsored few Central Polytechnic Staff for admission to the said courses and the 7th respondent had also sponsored and therefore, having chosen to do so, there cannot be a different treatment to similarly placed persons, which would violate Articles 14 and 16 of the Constitution of India apart from resulting in hostile discrimination; that the comparison made by the seventh respondent is a farce since M.S., BITS, Pilani is a full time sponsored programme with a fixed syllabi having been approved by Distant Education Council (DEC) and Ministry of Human Resources Development had accepted and given that the said qualification as equivalent to M.E.

25. The fourth respondent/BITS, Pilani would also file a rejoinder to the counter filed by the 7th respondent thereby furnishing the list of various authorities and Universities which have recognized BITS, Pilani and the unique features of the off-campus distance learning and collaborative programmes. This respondent would further submit that BITS, Pilani being a deemed University, it does not require any approval from AICTE; that under clause 10(k) of the AICTE Act, 1987 it is empowered to grant approval for starting courses in 'Technical Institutions' which are other than 'Universities' as per definitions 2(h) and (i) of the said Act; that the Universities do not come under the purview of the clause 10(k) of the AICTE Act, 1987 for approval and the same view has been upheld by the Honourable Supreme Court in its judgment delivered in BHARATHIDASAN UNIVERSITY AND ANOTHER vs. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION AND OTHERS reported in (2001) 8 SCC 676.

26. The seventh respondent would also file a reply affidavit to the rejoinder filed by the petitioners thereby reiterating their stand and further submitting that the University which conferred a degree on the petitioners alone is to answer the petitioners grievance; that the petitioners before pursuing the degree programme ought to have verified the recognition of the degree and accordingly decided not to opt for the degree and there is neither any privity of contract nor legal right to seek the prayer in the writ petitioner against the seventh respondent; that no University or a deemed University or its graduates can compel or demand as a matter of fact the 7th respondent University to recognise the degrees of such University and the petitioners have no right to invoke writ jurisdiction.

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27. This respondent would further submit that assuming without admitting that the impugned order is quashed, it would not automatically confer any right on the petitioners for their degrees to be recognised as equivalent by the concerned University since considering equivalence of degrees is a matter of academic expertise which has to be done by the experts of the respective University concerned because certain other Universities have recognised the degree of the University wherein the petitioners had studied, it is not incumbent on every University to likewise recognise since recognition and equivalence being academic matters have to be done by the respective University for which powers are conferred in the University Act; that the Anna University is acting as a nodal agency for and on behalf of Government of Tamil Nadu for engineering admission and is not in-charge of granting approval of students, which is done by the Directorate of Technical Education and the prescription of qualifications of faculty is within the purview of AICTE; that the University is empowered to grant and withdraw affiliation as per the provisions of the University Act; that the petitioners are not entitled to question the validity of the Syndicate resolution of the University in a writ petition wherein it is not the subject matter of challenge; that it is not obligatory on the University to grant recognition for a course on the sole ground that other non-statutory bodies such as Association of Indian Universities have granted recognition.

28. During arguments, the learned senior counsel for the petitioners would submit that no reasons have been assigned in the impugned order and would cite a judgment of the Honourable Apex Court delivered in MOHINDER SINGH GILL AND ANOTHER vs. THE CHIEF ELECTION COMMISSIONER, NEW DELHI AND OTHERS reported in AIR 1978 SC 851 wherein it has been held:

> "When a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out."

29. On behalf of the learned counsel for the 7th respondent/Anna University, the learned counsel would cite a judgment of the Honourable Apex Court delivered in RAJENDRA PRASAD MATHUR vs. KARNATAKA UNIVERSITY AND ANOTHER reported in AIR 1986 SC 1448 wherein it has been held:

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"It is for each University to decide the question of equivalence of examinations and it would not be right for the Supreme Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University."

30. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the arguments of the learned counsel for the petitioners and the respondents as well what comes to be known is that the petitioners have filed the above writ petition praying to quash the proceedings of the 2nd respondent made in letter No.5000/CDC/2000 dated --.10.2000 and consequently direct the respondents to recognise the degree of the 4th respondent for all purposes including appointments, promotions, higher studies and for doing Ph.D. etc. with all consequential benefits

31. The petitioners numbering 68, all of whom are B.E/B.Tech. graduates and working as Lecturers in various colleges under the control of the respondents 1, 2, 5 and 7 have joined M.S. degree courses in Computer Science, Electronics Control etc., systems and Information, Software System and Technological Operations and when it came into question of recognition, the second respondent by the impugned order has informed the petitioners that the MS Degree awarded by BITS, Pilani (Rajasthan) through correspondence programme is not equivalent to that of M.E., degree awarded by the Tamilnadu Universities and hence the above writ petition praying for the relief extracted supra.

32. The learned senior counsel for the petitioners would argue to the effect that the said degree was conferred on them by regularly undergoing sponsored Distance Learning Programme of the BITS, Pilani in pursuance of the employer having met the entire Academic pursuit to do the said programme; that BITS, Pilani is a 'Deemed University' and the degrees awarded by it are recognised and no formal orders are required as per the Official Memorandum No.6/1/64 Estt. D. dated 19.4.1964 and that the order of the 2nd respondent in treating the degrees awarded by the such pioneer universities as not equivalent to the M.E./M.Tech. Degrees which hitherto were considered equivalent

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and since the said institution has been established by the Act of Parliament and was accorded status of 'Deemed universities' under the Universities-Grants-Commission Act, the order of the 2nd respondent suffers jurisdictional and for non-application of mind.

33. The petitioners besides the other arguments would cite letter dated 13.11.1991 addressed by the Deputy Educational Adviser (Technical) Government of India to an individual stating that the degrees awarded by a University set up under an Act of Parliament or State Legislature are automatically recognised for the purpose of employment under Central Government and another letter dated 1.4.1993 issued by the Registrar, Manonmaniam Sundaranar University equivalent wherein it has been mentioned that for recruitment/promotion/higher studies, the MS Computer Science degree given by BITS, Pilani may be treated on par with P.G. Computer Science Degree. The petitioners counsel would further cite such instances of letters addressed by the Association of Indian Universities, New Delhi, The Adviser of All India Council for Technical Education and from BITS, Pilani would state that the certificates and degrees issued by the BITS, Pilani are equivalent to that of the M.S. Degree should be accepted by the Universities of Tamilnadu since it is a 'Deemed university' and is authorised to offer any degree programme and on such arguments the petitioners counsel would request the Court to consider the case of the petitioners in the light of the factual position since according to them, there is absolutely no reason as to why having recognized and accepted those degrees awarded by BITS, Pilani as equivalent to M.E.Degree for nearly six years, the respondents have now issued the impugned order contrarily and would ultimately pray to allow the above writ petition, quashing the impugned letter dated --.10.2000.

34. On the other hand on behalf of the respondents 1,2, 5 and 7 it would be strongly argued to the effect that by the communication received from the AICTE dated 31.7.1995, when it is stated that the council has not received any proposal plan from the BITS, Pilani for approval of the programmes and the degrees awarded by the Universities set up under the Act of Parliament or a State Legislature are automatically recognised for the purpose of employment. In this connection, a resolution of the General Academic matters of the syndicate meeting of the University of Madras held on 22.12.1999 cast resolving number of subjects in M.S. Degrees offered by BITS, Pilani. Therefore distance education in various disciplines contained only 8 subjects which is less when compared through M.E. Degree Courses which offers 12 subjects in two semesters and a project work for one full semester by the Madras University and the duration of M.S. Degree in BITS,Pilani is 2 to 4 semesters and hence M.S.

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Degree offered by BITS, Pilani through distance Education cannot be considered as equivalent to M.E./M.Tech degree of respective discipline of Madras University for the purpose of appointment/higher studies. Various instances would be cited by these respondents in consummation of their arguments that the degrees awarded by BITS, Pilani are not equivalent to that of the M.E./M.Tech degrees of the respective discipline of Madras University.

35. It would further be submitted on the part of these respondents that the courses offered by BITS, Pilani have not got the approval from AICTE; that since the MS Degree Programmes of BITS, Pilani being primarily a sponsored programme, the rigor of test and required level of competence applicable to regular M.E. Degree Programmes are not present in M.S. Degree programme; that the petitioners have also not presented the authenticated syllabi, the qualification of teaching faculty, duration of teaching and practical training of various subjects, the examination administered, the marks required for pass and class for categorization etc., applicable to the degree course undergone by the petitioners.

36. Cases would also be cited on the part of the petitioners and the respondents as well, so far as the proposition alleged to have been held in the case cited by the petitioners counsel reported in MOHINDER SINGH GILL AND ANOTHER VS. THE CHIEF ELECTION COMMISSIONER, NEW DELHI AND OTEHRS (AIR 1978 SC 851) are only suggestion in nature and not held as ruling so as to help the petitioners nor could it be done in the circumstances of the case. On the other hand, in the case cited on the part of the respondents reported in RAJENDRA PRASAD MATHUR vs. KARNATAKA UNIVERSITY AND ANOTHER (AIR 1986 SC 1448), it has been held that it is for each University to decide the question of equivalence of examinations and it would not be right for the Supreme Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise but the University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses; the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University.

37. The above judgment of the Honourable Apex Court is not only the law of the land but also squarely applies to the case in hand and needless to mention that the petitioners cannot compel the respondents particularly the respondents 1, 2, 5 and 7 with such impositions that they should recognise the degree conferred by the BITS, Pilani for any purpose much less for the

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purpose of appointment/ promotions/higher studies for doing Ph. D. etc., It is relevant to mention that no University or 'Deemed University' or its graduates could compel or demand any other university to recognise the degrees of other universities. It aptly applies to the petitioners as well and therefore no mention need be necessary that the petitioners have no case to offer. Hence the above writ petition becomes only liable to be dismissed.

In result,

(i) The above writ petition, for all the above reasons assigned, does not merit acceptance but only becomes liable to be dismissed and is dismissed accordingly;

(ii) Consequently, connected W.P.M.P.No.10566 of 2001 is also dismissed;

(iii) There shall be or order as to costs.

07.01.2005

ks

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

Copy to:

1. The Secretary,
   The State of Tamil Nadu,
   Higher Education,
   Fort St.George,
   Chennai-9.

2. The Director of Technical Education,
   Guindy, Chennai-25.

3. The Government of India,
   Ministry of Human Resources Development,
   Department of Education,
   New Delhi.

4. The Registrar,
   Birla Institute of Technology and Science
   Pilani, Rajasthan.

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5. The Registrar,
   University of Madras, Madras.

6. The All India Council for
   Technical Education,
   Shastri Bhavan,
   Haddows Road,
   Chennai-34.

7. The Registrar,
   Anna University,
   Chennai.

8. Association of Indian Universities,
   AIU House,
   No.16 Kotla Marg,
   New Delhi-2.

1 cc to Mr.L.Chandrakumar, Advocate, SR.1680
1 cc to Mr.N.Rajan, Advocate, SR.1579
1 cc to Mr.T.S.Sivagnanam, Advocate, SR.1486

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